

**ILLINOIS LABOR RELATIONS BOARD**

**JOINT PANEL**

**MINUTES OF THE JOINT PANEL MEETING HELD ON**

**MARCH 31, 2003**

**I. OPENING OF MEETING 9:45 A.M. – 160 North LaSalle Street, Suite N-400, Chicago, Illinois 60601-3103**

**II. PRESENT**

Mike Breslan, Joint Meeting Chair, Pam McDonough, Local Chair; Local Panel Members, Donald Hubert, Edward E. Sadlowski; State Panel Members, Ted Lechowicz, Mike P. Madigan, Thomas Walsh; Jacalyn J. Zimmerman, General Counsel; Brian E. Reynolds, Executive Director; staff members and members of the public.

**III. RULES DISCUSSION TO BE TAKEN AT THIS MEETING**

Chair Breslan commented that the rules were well articulated and well in order. Member Lechowicz raised the question regarding salaries for appointed counsel stemming from page twelve, Sec 1220.105, section (f)(3). He mentioned that the appointment of counsel had never been restricted for recommendation of salaries, whether it is seventy-five dollars or thirty dollars. Executive Director Reynolds responded that statute requires the Board to pay counsel fees for a proven indigent state person and Fred Wickizer aids in determining their indigent status. There is a based salary structure mirroring the federal courts and established a limit of five

thousand dollars. This amount is based and set in the Board's budget. Member Madigan commented that the Attorney General's discounted rate is two hundred dollars per hour. Member Madigan added that this rate is typical in government agencies for representation cases.

Member Hubert questioned the overall response from the community. Staff Member Julie Africk commented that response was good and helpful. Before the process and drafting changes, a letter was sent out to interested parties and upon receiving their feedback, many of the suggested changes were incorporated. In the revised rules under tab a, listed is are the specific criticisms, suggestions and comments raised by interested persons and the agency's analysis. Many of the suggestions were incorporated; such as the mailbox rule with concern to filing and service of documents, where the current rule is that documents are considered filed upon the date of the postmark. The proposed change was to consider those documents filed on the date of receipt. The response from this proposed change concluded that change would be burdensome so it was decided to retain the current rule. Other comments concerned requesting extending the time to thirty days to appeal to Executive Director's Orders, but that suggestion was respectively rejected. Overall, the accepted comments were incorporated into the proposed rules and draft was resubmitted.

Member Hubert questioned if there were any suggestions that the Board should be alerted to that would warrant a negative reaction. Ms. Africk responded that the

majority of the suggestions were constructive and deemed useful. Member Walsh questioned the abbreviated list of interested persons was indeed longer than those who replied. Ms. Africk responded that indeed the original list was longer, the final list of interested parties are those who responded after the draft was published in the Illinois Register.

Member Sadlowski requested clarification about the mailbox rule and commented about the elongated discussion spent on the subject matter. He questioned whether a faxed document would be considered filed by referring to the confirmation receipt. Ms. Africk mentioned that there is fax-filing provision is in the rules; it requires that the party provide a confirmation receipt and must follow the facsimile with a mailed hard copy. Local Panel Chair McDonough raised the question regarding accepting filings through email and the possibility of accepting digital signatures. General Counsel Zimmerman replied that although emailing of documents as correspondence is already in process, the acceptance of digital signatures is not readily available to staff members. The use of digital signatures and filings would have to be closely monitored and controlled to prevent any spam mail.

Member Hubert posed the question if there were many cases where the prevailing party filed exceptions. General Counsel Zimmerman replied of one particular case where there were cross exceptions that were filed to preserve their rights in the event that the losing party filed. Member Hubert asked for clarification to the

rules if there are cross exceptions filed and the non-prevailing party withdraws, then all subsequent exceptions would then be considered moot. He questioned was that only applicable where the cross exception by the prevailing party was filed after the allotted time period. He continued by asking if that was the case, then what would be the procedure if the prevailing party filed within time period, then it would not be considered moot. He posed the question whether there should be a provision that they can request that the issues would not be mooted. General Counsel Zimmerman could not recollect any cases where the prevailing party won the decision and yet decided to appeal a particular section that they disagreed with.

Member Sadlowski posed the question regarding charges during the course of the election and does that have the power to stop the election. Executive Director Reynolds responded that the statute in section (9) allows it, a letter is then sent out to notify the block. The statute provides that the Executive Director can stop the processing of the petition for an election two separate circumstances, including when there is an unfair labor practice filed that either affects the fair and free conduct of the election.

Member Sadlowski suggested that could be considered unfair because the department head or employer could purposely create a situation that falls in the category of an unfair labor practice. Executive Director Reynolds responded that if the petitioner doesn't want it blocked like the union, they are allowed to say that

they do not want it blocked. General Counsel Zimmerman drew the attention to the rules, section 1210.100(g) and that there was no feedback from the interested parties for this particular issue. General Counsel Zimmerman stated that unlike the National Labor Relations Board that automatically blocks, the Illinois Labor Relations Act states that only when the parties wants the election blocked, can it be done.

Meeting Chair Breslan commended staff and interested parties for all of their extensive work done on the rules. Ms. Africk said their goal is to enhance the efficiency of the agency and to make the procedure more user friendly. General Counsel Zimmerman made special mention about the hard work and effort put in by attorneys Julie Africk and Debbie Terrell (dec.)

Member Sadlowski moved that the proposed rules be accepted. Local Chair Panel McDonough seconded the motion. There were no abstentions and the motion passed unanimously.

Meeting Chair Breslan called for a motion to go into executive to discuss personnel issues pursuant to section (2) of the Open Meetings Act. Member Madigan made the motion to go into executive session. Member Walsh seconded. The motion passed.

The next scheduled Board meetings for both panels would be April 22, 2003. Local Panel would be at 3:00 p.m. and State Panel would be at 3:30 p.m.

General Counsel Zimmerman reminded the Board about Executive Director Brian Reynolds' retirement party would be April 22, 2003 from 4:30 p.m. – 7:30 p.m.

### **III. ADJOURNMENT**

Member Sadlowski made a motion to adjourn the meeting. Local Chair McDonough seconded the motion. The joint panel meeting was adjourned.